



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/693,163	10/23/2003	Reiner Eschbach	D/A2327	1667

7590 10/14/2004  
Ortiz & Lopez, PLLC  
P.O. Box 4484  
Albuquerque, NM 87196-4484

EXAMINER
----------

RIMELL, SAMUEL G

ART UNIT	PAPER NUMBER
----------	--------------

2165

DATE MAILED: 10/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/693,163

Applicant(s)

ESCHBACH ET AL.

Examiner

Sam Rimell

Art Unit

2165

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

  
SAM RIMELL  
PRIMARY EXAMINER

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 3.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

Art Unit: 2165

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 17 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 17: The phrase “wherein new subgroups the alternative keywords are generated” is confusing and appears to be missing words. .

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Stubler et al. (U.S. Patent 6,804,684).

Claim 1: In Stubler et al., a database is first created using images and their associated metadata, which are set into clusters in the database.

Once the database is established in which a new images is compared to the images in the established database. This is described at col. 9, lines 32-40. From this comparison, a set of keywords (referred to in the reference as “semantic labels”) are provided to the user. The actual keywords (semantic labels) which are offered to the user are based on time of entry of similar images (“time/date” at col. 9, lines 35) and number of occurrences of similar images (“reference

Art Unit: 2165

count” at col. 9, line 62). These two factors dictate the presentation of keywords (semantic labels) offered to the user.

Claim 2: As described at col. 10, lines 1-13, the user can either accept the offered keywords or edit the keywords, which means that the user is presenting alternatives to those keywords which are supplied.

Claim 3: Col. 10, lines 3-8 illustrate that the image along with the selected keywords are stored in the database. The selected keywords that are stored with the image are at least some of the keywords which were offered to the user.

Claim 4: If the offered keywords are edited (col. 10, line 2) the keywords stored in the database with the new image are alternative keywords.

Claim 5: The storage of the new image with its selected keywords inherently updates the database with a new occurrence (a new record in the database). The new image can in fact have a time and date stamp (col. 9, line 35) which is further readable as a time of storage in the database, as the act of storage can occur in the same date or year as the time that the image was captured.

Claim 6: The storage of the new image with alternative keywords (edited keywords) inherently updates the database with a new occurrence (a new record in the database). The new image can in fact have time and date stamp (col. 9, line 35) which is further readable as a time of storage in the database, as the act of storage can occur in the same date or year as the time that the image was captured.

Art Unit: 2165

Claim 7: Col. 10, lines 1-3 describe the presentation to user of an editable list of keywords. If the list is edited, the resulting edited words become alternative keywords. The list itself is a data entry field.

Claim 8: Col. 10, lines 1-6 describe the storage of the new images with either original keywords or alternative keywords produced by the editing action.

Claim 9: A new entry of an image in a database is readable as an entry of a new subgroup. Each new image and its associated keywords are a subgroup.

Claim 10: See remarks for claims 1-2.

Claim 11: See remarks for claim 3.

Claim 12: See remarks for claim 4.

Claim 13: See remarks for claim 5.

Claim 14: See remarks for claim 6.

Claim 15: See remarks for claim 7.

Claim 16: See remarks for claim 8.

Claim 17: See remarks for claim 9.

Claim 18: Stubler et al. discloses a memory device (12) which includes a database (col. 5, lines 38-39). The system further includes a content retrieval module (computer 10) that provides the image management and retrieval capabilities, a database statistics module (computer program of FIGS. 5-7) that performs the analysis of the numerical information in the metadata of the images, and a user interface (user input devices 22) that allows the user to accept or edit system suggestions for keywords attached to new images.

Art Unit: 2165

Claim 19: The user has control over the archiving process by selecting from a list of suggested keywords for new images so as to attach those keywords to the image (col. 10, lines 1-8).

Claim 20: The entry of new images into the database reads as a historical updating of the database.

Any inquiry concerning this communication should be directed to Sam Rimell at telephone number (703) 306-5626.



Sam Rimell  
Primary Examiner  
Art Unit 2165